IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. ANTHONY STEVEN HALL, JR., Defendant.	No. 15-CR-55-LRR **JURY INSTRUCTIONS**

Ladies and Gentlemen of the Jury:

In the next few moments, I am going to give you instructions about this case and about your duties as jurors. I may also give you additional instructions at a later time. Unless I specifically tell you otherwise, all instructions—both those I give you now and those I may give you later—are equally binding on you and must be followed.

The instructions I am about to give you now are in writing and will be available to you in the jury room.

INSTRUCTION NO. 1

In considering these instructions, attach no importance or significance whatsoever to the order in which they are given.

INSTRUCTION NO. 2

This is a criminal case, brought against the defendant by the United States government. The charges are set forth in what is called an indictment.

The Indictment in this case charges the defendant with three crimes.

Under Count 1, the Indictment charges that on or about April 13, 2015, in the Northern District of Iowa, the defendant did knowingly and intentionally possess with intent to distribute a mixture or substance containing a detectable amount of marijuana.

Under Count 2, the Indictment charges that on or about April 13, 2015, the defendant did knowingly (1) carry a firearm, that is a Taurus .40 caliber pistol, during and in relation to a drug trafficking crime and (2) possess a firearm, that is a Taurus .40 caliber pistol, in furtherance of a drug trafficking crime.

Under Count 3, the Indictment charges that on or about April 13, 2015, the defendant did knowingly possess in and affecting interstate commerce a firearm and ammunition, namely a Taurus .40 caliber pistol and .40 caliber ammunition, and that his possession of the firearm was illegal because he was a felon and an unlawful user of marijuana.

The defendant has pleaded not guilty to each of these charges. Keep in mind that each count charges a separate crime. You must consider each count separately, and return a separate verdict for each count.

You are instructed that an indictment is simply an accusation. It is not evidence of anything. The defendant has pleaded not guilty, and is presumed to be innocent unless and until proven guilty beyond a reasonable doubt. Thus, the defendant begins the trial with a clean slate, with no evidence against him. The presumption of innocence alone is sufficient to find the defendant not guilty and can be overcome only if the government proves during the trial, beyond a reasonable doubt, each element of the crimes charged.

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INSTRUCTION NO. 2 (Cont'd)

There is no burden upon the defendant to prove that he is innocent. Accordingly, if the defendant does not testify, that fact must not be considered by you in any way, or even discussed, in arriving at your verdicts.

INSTRUCTION NO. 3

It will be your duty as jurors to decide from the evidence whether the defendant is guilty or not guilty of the crimes charged. From the evidence, you will decide what the facts are. You are entitled to consider that evidence in the light of your own observations and experiences in the affairs of life. You may use reason and common sense to draw deductions or conclusions from facts which have been established by the evidence. You will then apply those facts to the law which I give you in these instructions. You are the sole judges of the facts; but you must follow the law as stated in my instructions, whether you agree with it or not.

Do not allow sympathy or prejudice to influence you. The law demands of you just verdicts, unaffected by anything except the evidence, your common sense and the law as I give it to you.

You should not take anything I may say or do during the trial as indicating what I think of the evidence or what I think your verdicts should be.

Finally, please remember that only this defendant, not anyone else, is on trial here, and that this defendant is on trial only for the crimes charged, not for anything else.

INSTRUCTION NO. 4

I have mentioned the word "evidence." The "evidence" in this case consists of the following: the testimony of the witnesses, the documents and other things received as exhibits and the facts that have been stipulated—that is, formally agreed to by the parties.

You may use reason and common sense to draw deductions or conclusions from facts that are established by the evidence in the case.

Certain things are not evidence. I shall list those things for you now:

1. Statements, arguments, questions and comments by the lawyers are not evidence.
2. Anything that might have been said by jurors, the attorneys or the judge during the jury selection process is not evidence.
3. Objections are not evidence. The parties have a right to object when they believe something is improper. You should not be influenced by the objection. If I sustain an objection to a question, you must ignore the question and must not try to guess what the answer might be.
4. Testimony that I strike from the record, or tell you to disregard, is not evidence and must not be considered.
5. Anything you see or hear about this case outside the courtroom is not evidence.

During the trial, documents and objects may be referred to but not admitted into evidence. In such a case, these items will not be available to you in the jury room during deliberations.

Furthermore, a particular item of evidence is sometimes received for a limited purpose only. That is, it can be used by you only for one particular purpose, and not for any other purpose. I will tell you if this occurs, and instruct you on the purposes for which the item can and cannot be used.

INSTRUCTION NO. 5

The government and the defendant have stipulated—that is, they have agreed—that certain facts are as counsel will state to the jury. You must therefore treat those facts as having been proved.

INSTRUCTION NO. 6

There are two types of evidence from which a jury may properly find the truth as to the facts of a case: direct evidence and circumstantial evidence. Direct evidence is the evidence of the witnesses to a fact or facts of which they have knowledge by means of their senses. The other is circumstantial evidence—the proof of a chain of circumstances pointing to the existence or nonexistence of certain facts. The law makes no distinction between direct and circumstantial evidence. You should give all evidence the weight and value you believe it is entitled to receive.

INSTRUCTION NO. 7

The jurors are the sole judges of the weight and credibility of the testimony and the value to be given to the testimony of each witness who testifies in this case. In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness says, or only part of it or none of it.

In deciding what testimony of any witness to believe, consider the witness's intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness's memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the general reasonableness of the testimony and the extent to which the testimony is consistent with other evidence that you believe.

In deciding whether to believe a witness, keep in mind that people sometimes hear or see things differently and sometimes forget things. You need to consider, therefore, whether a contradiction is an innocent misrecollection or lapse of memory or an intentional falsehood, and that may depend on whether it has to do with an important fact or only a small detail.

If the defendant decides to testify, you should judge his testimony in the same manner as you judge the testimony of any other witness.

INSTRUCTION NO. 8

In the previous instruction, I instructed you generally on the credibility of witnesses. I now give you this further instruction on how the credibility of a witness can be "impeached" and how you are to consider the testimony of certain witnesses.

A witness may be discredited or impeached by contradictory evidence; by showing that the witness testified falsely concerning a material matter; by showing the witness has a motive to be untruthful; or by evidence that at some other time the witness has said or done something, or has failed to say or do something, that is inconsistent with the witness's present testimony.

You may hear evidence that some witnesses were once convicted of a crime. In such a case, you may use that evidence only to help you decide whether you believe those witnesses and how much weight to give their testimony.

INSTRUCTION NO. 9

You will hear testimony from persons described as experts. Persons who, by knowledge, skill, training, education or experience, have become experts in some field may state their opinions on matters in that field and may also state the reasons for their opinion.

Expert testimony should be considered just like any other testimony. You may accept it or reject it, and give it as much weight as you think it deserves, considering the witness's education and experience, the soundness of the reasons given for the opinion, the acceptability of the methods used and all the other evidence in the case.

INSTRUCTION NO. 10

You will hear audio recordings of conversations. These conversations were legally recorded, and you may consider the recordings just like any other evidence.

INSTRUCTION NO. 11

Exhibits will be admitted into evidence and are to be considered along with all of the other evidence to assist you in reaching your verdicts. During your deliberations, you are not to tamper with the exhibits or their contents, and you should leave the exhibits in the jury room in the same condition as they were received by you.

INSTRUCTION NO. 12

Reasonable doubt is doubt based upon reason and common sense, and not doubt based on speculation. A reasonable doubt may arise from careful and impartial consideration of all the evidence, or from a lack of evidence. Proof beyond a reasonable doubt is proof of such a convincing character that a reasonable person, after careful consideration, would not hesitate to rely and act upon that proof in life's most important decisions. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. Proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

INSTRUCTION NO. 13

The crime of possession of marijuana with intent to distribute, as charged in Count 1 of the Indictment, has three elements, which are:

One, on or about April 13, 2015, the defendant was in possession of marijuana;

Two, the defendant knew that he was in possession of a controlled substance; and

Three, the defendant intended to distribute some or all of the marijuana to another person.

If the government proves all of these elements beyond a reasonable doubt, then you must find the defendant guilty of the crime charged under Count 1. Otherwise, you must find the defendant not guilty of the crime charged under Count 1.

INSTRUCTION NO. 14

The crime of possession or carrying of a firearm in furtherance of or during and in relation to a drug trafficking crime, as charged in Count 2 of the Indictment, has two elements, which are:

One, on or about April 13, 2015, the defendant committed the crime of possession with intent to distribute marijuana, as charged in Count 1 of the Indictment; and

Two, the defendant knowingly possessed a firearm in furtherance of that crime or knowingly carried a firearm during and in relation to that crime.

The phrase "in furtherance of" should be given its plain meaning, that is, the act of furthering, advancing or helping forward. The phrase "in furtherance of" is a requirement that the defendant possess the firearm with the intent that it advance, assist or help commit the crime, not that it actually did so.

You may find that a firearm was "carried" during the commission of the crime of possession with intent to distribute marijuana if you find that the defendant was knowingly transporting a firearm in a vehicle.

If the government proves all of these elements beyond a reasonable doubt, then you must find the defendant guilty of the crime charged under Count 2. Otherwise, you must find the defendant not guilty of the crime charged under Count 2.

INSTRUCTION NO. 15

The crime of being a prohibited person in possession of a firearm and ammunition, as charged in Count 3 of the Indictment, has three elements, which are:

One, on or about April 13, 2015, the defendant knowingly possessed a firearm and ammunition, that is, a Taurus .40 caliber pistol and .40 caliber ammunition;

Two, at the time the defendant possessed the firearm, he had previously been convicted of a crime punishable by imprisonment for a term exceeding one year or was an unlawful user of marijuana, a controlled substance as defined at 21 U.S.C. § 802; and

Three, the firearm was transported across a state line at some time during or before the defendant's possession of it.

The government and the defendant have stipulated, that is, agreed that the defendant has been convicted of a crime punishable by imprisonment for more than one year under the laws of the State of Iowa. Therefore, you must consider that prong of the second element as proven.

The term "firearm" means any weapon (including a starter gun) which will or is designed to or may be readily converted to expel a projectile by the action of an explosive.

You are instructed that the government and the defendant have agreed that marijuana is a controlled substance as defined at 21 U.S.C. § 802.

If the government proves all of these elements beyond a reasonable doubt, then you must find the defendant guilty of the crime charged under Count 3. Otherwise, you must find the defendant not guilty of the crime charged under Count 3.

INSTRUCTION NO. 16

The law recognizes several kinds of possession. A person may have actual possession or constructive possession. A person may have sole or joint possession.

A person who knowingly has direct physical control over a thing, at a given time, is then in actual possession of it.

A person who, although not in actual possession, has both the power and the intention at a given time to exercise dominion or control over a thing, either directly or through another person or persons, is then in constructive possession of it.

If one person alone has actual or constructive possession of a thing, possession is sole. If two or more persons share actual or constructive possession of a thing, possession is joint.

Whenever the word "possession" has been used in these instructions it includes actual as well as constructive possession and also sole as well as joint possession.

INSTRUCTION NO. 17

The government is not required to prove the amount or quantity of the controlled substance that the defendant possessed with the intent to distribute. The government only must prove that the defendant possessed a detectable amount of a controlled substance with the intent to distribute it.

INSTRUCTION NO. 18

You are instructed as a matter of law that marijuana is a Schedule I controlled substance. You will have to ascertain whether or not the substance in question as to Count 1 was marijuana. In so doing, you may consider all of the evidence in the case which may aid you in the determination of that issue.

INSTRUCTION NO. 19

The term "distribute" means to deliver a controlled substance to the possession of another person. The term "deliver" means the actual or attempted transfer of a controlled substance to the possession of another person. No consideration for the delivery need exist, and it is not necessary that money or anything of value change hands. The law is directed at the act of distribution of a controlled substance and does not concern itself with any need for a "sale" to occur.

INSTRUCTION NO. 20

It is not necessary for the government to prove that the defendant knew it was illegal to have the firearm or ammunition in his possession within the meaning of the law. Nor is it necessary for the government to prove who owned the firearm or ammunition at any time. The statute speaks in terms of possession, not ownership.

INSTRUCTION NO. 21

The government is not required to prove that the defendant knew that his acts or omissions were unlawful. An act is done knowingly if the defendant is aware of the act and does not act through ignorance, mistake or accident.

Knowledge may be proved like anything else. You may consider any acts done or statements made by the defendant in connection with the offense, and all the facts and circumstances in evidence which may aid in a determination of the defendant's knowledge.

INSTRUCTION NO. 22

Intent may be proven by circumstantial evidence. It rarely can be established by other means. While witnesses may see or hear and thus be able to give direct evidence of what a person does or fails to do, there can be no eyewitness account of the state of mind with which the acts were done or omitted. But what a defendant does or fails to do may indicate intent or lack of intent to commit an offense.

You may consider it reasonable to draw the inference and find that a person intends the natural and probable consequences of acts knowingly done, but you are not required to do so. As I have said, it is entirely up to you to decide what facts to find from the evidence.

I instruct you that possession of a large quantity of marijuana and the presence of firearms supports an inference of an intent to distribute. In determining whether the defendant possessed marijuana with the intent to distribute, you may consider whether the defendant knowingly and intentionally possessed a large quantity of marijuana. If you find that he did, then you may, but are not required to infer that he had the intent to distribute.

INSTRUCTION NO. 23

At the end of the trial, you must make your decisions based on what you recall of the evidence. You will not have a written transcript to consult. Therefore, you must pay close attention to the testimony as it is given.

If you wish, you may take notes during the presentation of evidence to help you remember what witnesses said. If you do take notes, please keep them to yourself until you and your fellow jurors go to the jury room to decide the case. And do not let note-taking distract you so that you do not hear other answers by the witnesses.

During deliberations, in any conflict between your notes, a fellow juror's notes and your memory, your memory must prevail. Remember that notes sometimes contain the mental impressions of the note taker and can be used only to help you recollect what the testimony was.

Before we begin the evidence, we will give each juror an envelope with a pad and pen in it. The envelopes are numbered according to your seat in the jury box. When you leave for breaks or at night please put your pad and pen in the envelope and leave the envelope on your chair. Your notes will be secured, and they will not be read by anyone. At the end of trial and your deliberations, your notes should be left in the jury room for destruction.

INSTRUCTION NO. 24

During the trial, it may be necessary for me to talk with the lawyers out of the hearing of the jury, either by having a bench conference while the jury is present in the courtroom or by calling a recess. If a bench conference is held in the courtroom, we will switch on what we refer to as "white noise" so that the jurors cannot hear what is being said by the lawyers and me. While the bench conferences are being conducted, you should feel free to stand and stretch and visit among yourselves about anything except the case.

INSTRUCTION NO. 25

During the course of the trial, to ensure fairness, you as jurors must obey the following rules.

First, do not talk among yourselves about this case, or about anyone involved with it, until the end of the case when you go to the jury room to decide on your verdicts.

Second, do not talk with anyone else about this case, or about anyone involved with it, until the trial has ended and you have been discharged as jurors.

Third, do not use any electronic device or media, such as the telephone, a cell or smart phone, Blackberry, PDA, computer, the Internet, any Internet service, any text or instant messaging service, any Internet chat room, blog or website such as Facebook, YouTube or Twitter, to communicate to anyone any information about this case, or your opinions concerning it, until the trial has ended and you have been discharged as jurors.

Fourth, when you are outside the courtroom do not let anyone tell you anything about the case, or about anyone involved with it, until the trial has ended and your verdicts have been accepted by me. If someone should try to talk with you about the case during the trial, please report it to me through the Court Security Officer.

Fifth, during the trial, you should not talk with or speak to any of the parties, lawyers or witnesses involved in this case—you should not even pass the time of day with any of them. It is important not only that you do justice in this case, but that you also give the appearance of doing justice. If a person from one side of the case sees you talking to a person from the other side—even if it is simply to pass the time of day—an unwarranted and unnecessary suspicion about your fairness might be aroused. If any lawyer, party or witness does not speak to you when you pass in the hall or the like, it is because they are not supposed to talk or visit with you.

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INSTRUCTION NO. 25 (Cont'd)

Sixth, do not read any news stories or articles about the case, or about anyone involved with it, or listen to any radio or television reports about the case, or about anyone involved with it. In fact, until the trial is over, I suggest that you avoid reading any newspapers or news journals at all, and avoid listening to any TV or radio newscasts at all. I do not know whether there might be any news reports of this case, but, if there are, you might inadvertently find yourself reading or listening to something before you could do anything about it. If you want, you can have your spouse or a friend clip out any stories and set them aside to give you after the trial is over. I can assure you, however, that by the time you have heard the evidence in this case you will know more about the matter than anyone will learn through the news media.

Seventh, do not do any research or make any investigation about the case on your own. Do not consult any reference materials such as the Internet, books, magazines, dictionaries or encyclopedias. Do not contact anyone to ask them questions about issues that may arise in this case. Remember you are not permitted to talk to anyone (except your fellow jurors) about this case or anyone involved with it until the trial has ended and I have discharged you as jurors.

Eighth, do not make up your mind during the trial about what the verdicts should be. Keep an open mind until after you have gone to the jury room to decide the case and you and your fellow jurors have discussed the evidence.

INSTRUCTION NO. 26

During your deliberations at the conclusion of the trial, there will be additional rules that you must follow. I shall list those rules for you now.

First, when you go to the jury room to deliberate at the conclusion of trial, you will select one of your members as your foreperson. That person will preside over your discussions and will speak for you here in court when you have reached your verdicts.

Second, it will be your duty, as jurors, to discuss this case with one another in the jury room after you have heard the parties' evidence and arguments. When you do so, you should try to reach agreement if you can do so without violence to individual judgment, because your verdicts—whether guilty or not guilty—must be unanimous.

Each of you must make your own conscientious decisions, but only after you have considered all the evidence, discussed it fully with your fellow jurors and listened to the views of your fellow jurors.

Do not be afraid to change your opinions if your discussion persuades you that you should. But you must not come to a decision simply because other jurors think it is right or simply to reach your verdicts.

Third, if you ultimately find the defendant guilty, the sentence to be imposed is my responsibility. You may not consider punishment in any way when deciding whether the government has proved its case beyond a reasonable doubt.

Fourth, if you need to communicate with me during your deliberations, you may send a note to me through the Court Security Officer, signed by one or more jurors. I will respond as soon as possible either in writing or orally in open court. Remember that you should not tell anyone—including me—how your votes stand numerically.

Fifth, your verdicts must be based solely on the evidence and on the law that I have given to you in my instructions. Your verdicts, whether guilty or not guilty, must be unanimous. Nothing I may say or do during the course of trial is intended to suggest what your verdicts should be—that will be entirely for you to decide.

INSTRUCTION NO. 27

Attached to these instructions you will find the Verdict Forms and Interrogatory Forms. The Verdict Forms and Interrogatory Forms are simply the written notices of the decisions that you will reach in this case. The answers to the Verdict Forms and Interrogatory Forms must be the unanimous decisions of the Jury.

At the conclusion of trial, you will take the Verdict Forms and Interrogatory Forms to the jury room, and when you have completed your deliberations and each of you has agreed to the answers to the Verdict Forms and Interrogatory Forms, your foreperson will fill out the Verdict Forms and Interrogatory Forms, sign and date them and advise the Court Security Officer that you are ready to return to the courtroom. Your foreperson should place the signed Verdict Forms and Interrogatory Forms in the blue folder, which the court will provide you when you retire to the jury room to deliberate. Then, your foreperson will bring the blue folder when returning to the courtroom.

INSTRUCTION NO. 28

The trial will proceed in the following manner:

First, the attorney for the government will make an opening statement. Next, the attorney for the defendant may, but does not have to, make an opening statement. An opening statement is not evidence, but is simply a summary of what the attorney expects the evidence to be.

The government will then present its evidence, and the attorney for the defendant may cross-examine. Following the government's case, the defendant may, but does not have to, present evidence, testify or call other witnesses. If the defendant calls witnesses, the attorney for the government may cross-examine them.

After presentation of evidence is completed, the attorneys will make their closing arguments to summarize and interpret the evidence for you. As with opening statements, closing arguments are not evidence. After that, you will retire to deliberate on your verdicts.

Dated this 13th day of June, 2016.

Linda R. Reade, Chief Judge
United States District Court
Northern District of Iowa